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Paper No.

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JUL 07 2008

OFFICE OF PETITIONS

In re Application of :
Katayama et al. : DECISION ON PETITION
Application No. 10/629,808 :
Filed: July 30, 2003 :
Atty Docket No. 1487.36486CC6 :

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed March 10, 2008.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper reply to the non-final Office action mailed June 1, 2007. The Office action set a three (3) month shortened statutory period for reply, with extensions of time obtainable under 37 CFR 1.136(a). A continuing application was filed on October 31, 2007¹. However, applicant did not file in this application the petition for extension of time (and extension fee) required to establish continuity. No reply having been received and no extensions of time obtained, the above-identified application became abandoned on September 2, 2007. In addition, continuity was not established between this application and the application filed October 31, 2007. A courtesy Notice of Abandonment was mailed January 9, 2008.

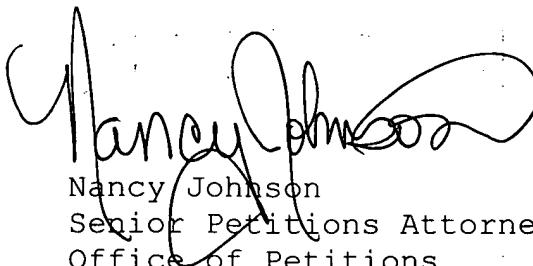
¹ It is noted that the filing of a continuing application is not a paper directed or placed in the file of the prior application and is not a "reply" to the last Office action in the prior application. Thus, a petition for an extension of time and the fee set forth in 37 CFR 1.17 are required to be filed as a separate paper in the prior application.

In response, applicants filed the instant petition. Applicants previously filed a continuing application. The petition includes payment of the petition fee and the required statement of unintentional delay. Petitioner seeks revival solely for continuity purposes.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the application, the application is again abandoned in favor of the continuation application (application No. 11/931,881) filed October 31, 2007.

The petition also includes a fee of \$460 for extension for response within the second month. The maximum period for extension for response to the Office action ended on December 14, 2007. Thereafter, no extension of time could be obtained. As no extension of time is obtainable, the fee is subject to refund. In other words, an extension of time is necessary to establish continuity between the prior application and the continuing application filed under 37 CFR 1.53(b) prior to the abandonment of the prior application. However, continuity cannot be established by filing an extension of time after the abandonment of the prior application. Continuity is established by petitioning for revival. Accordingly, the extension of time fee is being refunded to petitioner.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3219.



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